

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte TAKASHI AKAMATSU, MOTOKA NISHIDA and TAKAYOSHI MIURA

Appeal No. 2006-0088
Application No. 10/183,952

HEARD: JANUARY 12, 2006

Before McQUADE, CRAWFORD, and BAHR, Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 7, which are all of the claims pending in this application.

The appellants' invention relates to an engine mount for a vehicle or ship (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

THE PRIOR ART

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

LeFol	4,767,106	Aug. 30, 1988
Oberle	6,386,527	May 14, 2002

THE REJECTIONS

Claims 1 and 3 to 7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by LeFol.

Claim 2 stands rejected under 35 U.S.C. § 103 as being unpatentable over LeFol in view of Oberle.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (mailed July 25, 2005) for the examiner's complete reasoning in support of the rejections, and to the brief (filed June 14, 2005) and reply brief (filed September 20, 2005) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

We turn first to the examiner's rejection of claims 1 and 3 to 7 under 35 U.S.C. § 102 (b). We initially note that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987).

The examiner's findings regarding the teaching of Le Fol can be found on pages 3 and 4 of the answer. In regard to the recitation in claim 1 of a "vibration side attaching member comprising a top portion and a spindle portion", the examiner finds:

. . . the spindle portion is interpreted as the structure receiving a portion of the rubber isolator, this is consistent with the applicant's embodiment as illustrated in figure 4 [answer at page 3].

. . . The applicant's definition of a spindle appears to read upon element 3 of Le Fol. The element in question is in fact a short tapered shaft. It is unclear to the examiner what issues the applicant has with this element and why they do not consider it to be shaped as a spindle. It is noted that the shape of element 10 in the instant application is substantially the same as element 3 in Le Fol [answer at page 7].

We agree with the appellants Le Fol does not describe a vibration side attaching member comprising a top portion and a spindle portion. Firstly, in our view, element 3 of Le Fol can not be considered a spindle portion as argued by the examiner. However, even if element 3 of Le Fol is considered a spindle portion, there is no structure in Le Fol which can be considered a topper portion. Claim 1 requires a spindle portion and a topper portion. As Le Fol does not describe an attaching member which comprises a top portion and a spindle portion, we will not sustain the examiner's rejection of claim 1 or claims 3 to 7 dependent thereon as being anticipated by Le Fol.

We turn next to the examiner 's rejection of claim 2 under 35 U.S.C. § 103 as being unpatentable over Le Fol in view of Oberle. Claim 2 recites that the axis line of said vibration side attaching member is made almost parallel to the supporting axis. The examiner relies on Oberle for teaching an engine mount with a vibration side attaching member, the vibration side attaching member being formed aslant to a perpendicular line z of the supporting frame surface.

We have reviewed the disclosure of Oberle and find that Oberle does not remedy the deficiencies noted above in respect to Le Fol. Therefore, we will not sustain this rejection for the same reasons discussed above in regard to the anticipation rejection.

The decision of the examiner is reversed.

REVERSED

JOHN P. McQUADE
Administrative Patent Judge

MURRIEL E. CRAWFORD
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

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**APPEAL NO. 2006-0088
APPLICATION NO. 10/183,952**

APJ CRAWFORD

APJ MCQUADE

APJ

DECISION:

PREPARED: May 13, 2006

OB/HD

PALM:

ACTS 2:

DISK (FOIA):

REPORT:

BOOK:

GAU:

44C1:

IFW in E. Cook's Incoming: